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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,507	07/15/2004	Masayoshi Handa	1422-0635PUS1	8270
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PO BOX 747	CH 3/A 22040 0747	BERNSHTEYN, MICHAEL		
FALLS CHURG	CH, VA 22040-0747	ART UNIT	PAPER NUMBER	
		1796		
			NOTIFICATION DATE	DELIVERY MODE
			08/20/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)		
10/501,507	HANDA ET AL.		
Examiner	Art Unit		

NOTICE OF APPEAL The Notice of Appeal was filed on		MICHAEL M. BERNSHTEYN	1796					
1. ☑ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandomment of this application, applicant must itemly file one of the following replies: (1) an amendment, affidiaty, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 1.131; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods: (a) ☑ The period for reply expires ② months from the mailing date of the final rejection. (b) ☐ The period for reply expires ② months from the mailing date of the final rejection. (c) Examiner Note: If box 1 is chacked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRM, REJECTION. See MPEP 706.07(f). (Extensions of time may be obtained under 37 CFR 1.138(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee nother 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortered statutory period for reply originally set in the final Office action. (2) as many reduce any exame patient term adjustment. See 37 CFR 1.74(b). NOTICE OF APPEAL. (3) ☐ The Notice of Appeal was filed on A brief in compliance with 37 CFR 4.137 must be filed within two months of the date of ling the Notice of Appeal was been filed, any reply must be filed within the time period set forth in 37 CFR 4.137(a). (a) ☐ The Notice of Appeal (a) CFR 4.137(a), or any extension thereof (37 CFR 4.13.7(e)), to avoid diamissal of the appeal. Since a Notice of Appeal was been filed, any reply must be filed within the time period set forth in 37 CFR 4.13.37(a). (b) ☐ The yraise the issues that would require further consideration and/or search (see NOTE below); (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (c)	The MAILING DATE of this communication appe	ars on the cover sheet with the c	correspondence add	ress				
application, applicant must timely file one of the following replies: (1) an amendment, afficiavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 1.14. The reply must be filed within one of the following time periods: a) The period for reply expires on (1) the mailing date of this Advisory Acition, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. Examiner Note: If box 1 is checked, check either box (a) or (b), ONLY CHECK BOX (b) WHAT INTELEMENT REPLY VARS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f), ONLY CHECK BOX (b) WHAT INTELEMENT REPLY VARS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f), ONLY CHECK BOX (b) WHAT INTELEMENT REPLY VARS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f), ONLY CHECK BOX (b) WHAT INTELEMENT REPLY VARS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f), ONLY CHECK BOX (b) WHAT INTELEMENT REPLY VARS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f), ONLY CHECK BOX (b) WHAT INTELEMENT REPLY VARS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f), ONLY CHECK BOX (b) WHAT INTELEMENT REPLY VARS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f), ONLY CHECK BOX (b) WHAT INTELEMENT REPLY VARS FILED WITHIN TWO MONTHS for the proposes of appeal was been declared to propose of the see of the proposes of declaring the Notice of Appeal was filed on	THE REPLY FILED 04 August 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.							
a) The period for reply expires 2_months from the mailing date of the final rejection. b) The period for reply expires on: (1) the mailing date of the final rejection, whichever is later. In no event, however, will the statulary period for reply expire later than SIX MONTHS from the mailing date of the final rejection. Exemen Note: If box is checked, check cither box (s) or (b) ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MEEP 706.07(f). Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed is the date for purpose of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any amend patent term adjustment. See 37 CFR 1.704(b). NOTICE OF APPEAL 2. The Notice of Appeal was filed on	application, applicant must timely file one of the following application in condition for allowance; (2) a Notice of Appetor Continued Examination (RCE) in compliance with 37 C	replies: (1) an amendment, affidavi eal (with appeal fee) in compliance	t, or other evidence, w with 37 CFR 41.31; or	hich places the (3) a Request				
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the date of purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filled is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action, or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filled, may reduce any semed patent term adjustment. See \$7 CFR 1.704(b). NOTICE OF APPEAL. ☐ The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(a)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). AMENDMENTS 3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing the Notice of Appeal and the proposed amendment (see NOTE below); (b) ☐ They raise new issues that would require further consideration and/or search (see NOTE below); (c) ☐ They raise the issue of new matter (see NOTE below); (d) ☐ They raise and deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) ☐ They raise the size of the proposed amendment (see NOTE below); (e) ☐ They raise t	<u></u>	of the final rejection.						
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Continuation of 11. It appears that the focal Applicants argument resides in the contention that Shimomura '060 does not teach or suggest adding the reducing agent to a polymer when the polymer is in a water-containing gelated state, as presently claimed. As shown in the attached Figure, the compound(A) is added to the absorbent polymer once dried. This greatly differs from the method of the present invention. Accordingly, Shimomura '060 cannot possibly render the present invention, requiring that a reducing agent or an oxidizing agent is added to a gelated product after polymerization but prior to or during drying, obvious (page 4).

It is noted that Shimomura's reference was used only as the second prior art for covering the quantitive limitations of claim 1, step c) regarding the amount of a reducing or an oxidizing agent. Therefore, it is not clear why the most of Applicant's arguments are regarding the adding the reducing agent to a polymer when the polymer is in a water-containing gelated state, which are decribed in this second reference as presently claimed.

Furthermore, it is worth to mention that the first reference of Hosokawa (EP 0 889 063 A1) discloses that if desired, the superabsorbent resin composition can contain various additives, such as reducing agent, etc. which can be added in a total amount of not more than 50% by weight based on the total weight ofsuper absorbent resin composition (page 8, lines 10-13). Therefore, the reducing agent is added to the polymerized water-containing gelated product, which is within the scope of instant claim 1, step c). See paragraph 6 of Office action dated on October 3, 2007.

In response to the Applicant's arguments that it seems that the Examiner may be requiring that comparative tests be conducted not against something actually disclosed in the prior art but against a modified version of the prior art (page 5, 1st paragraph), and that the results of the Declaration Under 37 C.F.R. filed on February 4, 2008 are sufficient evidence that the present invention achieves unexpected and superior results over the closest prior art (page 5, 3rd paragraph), it is noted that Experiment I does not contain any reducing agent or oxidizing agent (table II, page 9) while the first prior art of Hosokawa clearly discloses that the superabsorbent resin composition can contain various additives, such as reducing agent, etc. (page 8, lines 10-13).

It is well settled that "an applied reference may be relied upon for all that it would have reasonably suggested to one of ordinary skill in the art, including not only preferred embodiment, but less preferred and even non preferred". Merck & Co. v. Biocraft Laboratories, 874 F.2d 804, 10 USPQ2d 1843 (Fed. Cir.), cert. denied, 493 U.S. 975 (1989).

Therefore, the rejection of the claims 1-7 cannot be withdrawn and remains in force.